

NO. 25564

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

RICH ZUBATY, Plaintiff-Appellant

vs.

MARGARET MAY NOYCE, DAN VANARSDALE, PENDRED NOYCE, TOM CATTELL,
DAN BURKE, SEAN MORRIS, LINDA SHERRARD, CARL MENDENHALL,
PROSECUTING ATTORNEY, COUNTY OF MISSOULA, MONTANA, VICE PRESIDENT
AND/OR CHIEF OFFICER OF THE TRUST DEPARTMENT, FIRST INTERSTATE
BANK, MISSOULA, MONTANA, Defendants-Appellees

and

JOHN AND JANE DOES 1-5, DOE CORPORATIONS 1-5, DOE PARTNERSHIPS
1-5, DOE LEGAL ENTITIES 1-5, Defendants

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 01-1-0546)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Moon, C.J., Levinson, and Nakayama, JJ.,
and Circuit Judge Marks, in place of Acoba, J., unavailable,
and Circuit Judge Wilson, assigned by reason of vacancy)

Upon consideration of the motion for reconsideration of
the April 25, 2003 order dismissing appeal, which shall be
treated as a motion for reinstatement of appeal, the papers in
support and the record, it appears that reinstatement of this
appeal is not warranted inasmuch as the judgment required by HRCP
58 was not entered by the time the record was filed in the
supreme court on March 3, 2003. See Jenkins v. Cades Schutte
Fleming & Wright, 76 Hawai'i 115, 120, 869 P.2d 1334, 1339
(1994) ("An appeal from an order that is not reduced to a judgment

in favor of or against the party by the time the record is filed in the supreme court will be dismissed."). Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

Dated: Honolulu, Hawai'i, May 22, 2003.

Rich Zubaty,
appellant pro se
on the motion